



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

David W. Jones
National Progress Fund
PO Box 57154
Washington, DC 20037

APR 26 2010

RE: MUR 6021
National Progress Fund

Dear Mr. Jones:

On September 26, 2008, the Federal Election Commission notified National Progress Fund of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to National Progress Fund at that time. On October 20, 2008, the Commission notified National Progress Fund of a supplement to the initial complaint, and a copy of the supplement was forwarded to you at that time. On January 12, 2010, the Commission notified National Progress Fund of additional information from the complainant pertaining to the allegations in the complaint, and a copy of this additional information was forwarded to you at that time. After considering the circumstances in this matter, the Commission, on April 13, 2010, voted to dismiss the complaint as to National Progress Fund, and closed the file in this matter. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

If you have any questions, please contact Roy Q. Lockett, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, reading "Susan L. Lebeaux".

Susan L. Lebeaux
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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4 **RESPONDENT: National Progress Fund**

MUR 6021

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7 **I. INTRODUCTION**

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9 The complaint in this matter alleges that the National Progress Fund, a Section 527
10 organization that was active during the 2004 election cycle, violated the Act by failing to register
11 and report as a political committee. Specifically, the complaint alleges that the National Progress
12 Fund raised and spent at least \$516,334 and produced and broadcast at least eight different radio
13 and television commercials, each of which expressly advocated against the election of Nader and
14 Peter Miguel Camejo. As discussed below, the Commission has determined to exercise its
15 prosecutorial discretion and dismiss the allegation as to the National Progress Fund.

16 **II. FACTUAL AND LEGAL ANALYSIS**

17 According to the complaint, The National Progress Fund made expenditures of \$516,334
18 to influence the 2004 presidential election. Complaint at 11.

19 The complaint concludes that the National Progress Fund was subject to the Act's
20 registration and reporting requirements, but failed to comply. Complaint at 13. The National
21 Progress Fund did not respond to the complaint.

22 The available information indicates that the National Progress Fund is either defunct or
23 has ceased operations. Specifically, this organization filed its final IRS report in March 2006,
24 reporting \$0 in receipts. In addition, while the activity at issue occurred in 2004, the complaint
25 was not filed until 2008. Thus, among other reasons, the age of the alleged violations would
26 create problems of proof and raise obstacles under the five-year statute of limitations. Under
27 these circumstances, the Commission has determined to exercise its prosecutorial discretion and

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- 1 dismiss the allegations that the National Progress Fund violated 2 U.S.C. §§ 433 and 434(b). *See*
- 2 *Heckler v. Chaney*, 470 U.S. 821 (1985).

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